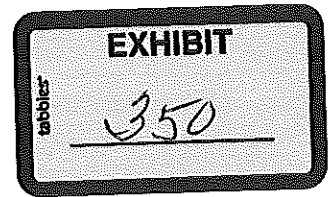




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Mr. Paul E. Stacey  
Department of Environmental Protection  
Bureau of Water Protection and Land Reuse  
Planning and Standards Division  
79 Elm Street  
Hartford, CT 06106-5127

**Written Testimony in Support of the Proposed CT Stream Flow Standards and Regulations**

Dear Mr. Stacey,

I want to again thank you and the Bureau for the opportunity on January 21<sup>st</sup> to express my support of the DEP's Proposed Stream Flow Standards and Regulations. They represent a major step forward in the preservation and restoration of our state's many miles of rivers and streams. This letter will afford me a more ample format to express my rationale for my comments than the 3 minutes available at the public hearing.

Let me introduce myself again. My wife and I have been Connecticut residents for 25 years and owned three houses in the state. I work for a global high-tech company which maintains two offices in Connecticut. I am an avid fly fisher, kayaker, skier, and enjoy a variety of other outdoor activities.

I have been a member of Trout Unlimited (TU) for the past ten years. As I am certain you are aware, TU is the nation's leading coldwater conservation organization based on grassroots membership dedicated to the conservation, restoration and protection of North America's coldwater habitats and the watersheds they depend on. For five years I served as the President of the Mianus chapter of Trout Unlimited (TU), a steward of the watersheds in southwest Connecticut. In 2008, I was elected Chairman of TU's statewide Council representing its 8 chapters and over 3,000 members.

A number of TU members will be providing you with their own written comments, so I will try to avoid repeating them, particularly those that focus on the technical and scientific points. However, I do want to expand upon my points that I brought up in oral testimony in Hartford on January 21<sup>st</sup>:

**The CT DEP Has Made a Strong First Step**

First I want to acknowledge and applaud DEP's efforts to create these draft regulations based on the 2005 legislation. What you are working toward is a groundbreaking set of rules for managing a state's water resources, from the groundwater to the surface water. They appear to be workable over the longer term, with only a few areas that I believe must be strengthened in their final form. These I discuss in a later section of this letter.

It is important to put your work to create this draft in the broader context. You have taken a large challenge and broken it down into more manageable parts. For example, you have proposed a varied classification scheme for our streams and rivers. Without this, it would be difficult to establish a homogeneous set of regulations that could apply across the board. Although there will be debate over how many classes and the definitions of each, you have taken a stab at it and I think you did a very good job.

I also compliment you for incorporating the principle that Connecticut's water resources are a public resource, and not the exclusive raw material for any commercial enterprise. This principle dictates that the broader common good must be considered by all parties who use this resource. As a fisherman, I must respect these multiple uses and not deliberately contaminate it with my fishing. As a tax payer, I want to see those revenues go toward activities that protect and conserve the waters for both current and future users. I also acknowledge that the water companies are delivering a critical service to their customers and should be looked upon to manage their business for both customer and stockholder's long-term benefit. Even other recreational interests such as boaters and golfers need adequate water resources for their activities. You have put this notion of protecting this public resource squarely on the table.

In reading your draft, I also see that you consider Connecticut's water resources as a system. To me, what means that all water diversions that impact the stream flows will be regulated. We have heard cited a number of times in the testimony about well withdrawals leading to desiccated rivers over the past ten years. By taking a systems view of our water resources, you are informing all water users that they will be held accountable for the impacts of their actions.

I also commend the Bureau for leveraging good science, good management, and good stewardship principles. You have linked an understanding of the natural cycles of life in and around our waters with the seasonality of natural flows. Aquatic life has evolved to time its spawning cycles to coincide with normal flow patterns, so you have reflected an understanding of this in your proposed regulations. You also take into account the need for priority-based emergency response to low- and high-water events, and thus to ultimately protect the public. And for stewardship, you are trying to bring in all players into the response system, not just major users such as the water companies and other businesses in the state. Our residents do have a role in constraining water use, both longer term through conservation as well as during drought events. Even those of us who fish need to grasp this inter-related system; if we want to provide some protection to cold-water fish in low-water conditions, we should be prepared to lend a hand. A recent example are the proposed thermal refuge projects along the Housatonic, whereby a coalition of people from TU, various fishing clubs, outfitters and retailers, along with the DEP, plan to build and/or rebuild a number of boulder- and log-based structures near cold-water tributaries where trout congregate during warm, low-flow periods.

As a result of this approach, you are fostering a framework for collaboration among all water-dependent stakeholders. No one stakeholder should be able to impose their requirements without considering the impact on all parties and the potential trade-offs for the common good. I expect a healthy dialogue when there needs to be compromise. We know that population growth leads to increased water consumption, and yet Connecticut has a fixed supply. In order to accommodate that growth, I expect towns to establish zoning and construction codes to require using the best water conservation technologies possible. They also should take into account the ecological sensitivity of a location, i.e., a pristine headwaters area would not be an acceptable place to build a golf course.

I also believe you have taken a realistic approach to the implementation timeframe. It will take some time for adjustments in programs and spending, as well as consumer behaviors. Case in point was the oft mentioned objection by the various water companies that the proposed regulations are creating an 'unfunded mandate'. I would expect the water companies to start planning for additional capital investments, and also to look for additional revenues, all of which will take a number of years. I will also take time for consumers to change their water consumption behavior, even with help from new construction practices. Even the classification of rivers and streams will take time, and the outdoor enthusiasts need to acknowledge this. I personally would love to see all rivers and streams targeted for remediation to a Class 1 status, but that is neither achievable in my lifetime nor a consensus-building solution. We must strive for a sustainable balance across many diverse interests.

I suggest taking a page from another heavily regulated industry, electric power, when looking for insights and validation of ideas for stream flow regulation. This industry is also bumping up against a constrained

supply, versus an every expanding demand. The nature of the demand has been changing, with the introduction of more energy-efficient appliances, and yet there is an ever-growing baseline of electric power as electronic devices proliferate in homes and business. Supply is changing as well, but not always in favor of the traditional supplier, i.e., the regulated electric utility. A small but growing share of electric power is supplied by privately owned sources (solar and wind) that are outside of the utilities' control. What all the stakeholders have started to realize is that they all need to work together to maximize availability yet increase efficiency. A major step forward has been the work to define and create a 'smart grid', representing the nerve network needed to articulate electric power supply and demand. This is being pursued by an emerging consortium of utilities, equipment suppliers, municipalities, rate-payers, and state and local governments. There is an emerging common view of the problem and potential solutions. I would hope that this same collaborative spirit which you reflect in the breadth of your proposed regulations is accepted by all water stakeholders here as well.

#### Some Concerns That I Have With The Draft Regulations

As a first cut at these new regulations, you have done an admirable job. However, two areas in the proposed regulations I believe need to be improved and strengthened.

The first is increased clarity and decisiveness in the definition of 'what water is covered'. Let's ensure that all water diversions come under these new regulations. Because stream flows are directly impacted by adjacent groundwater and the water table, these regulations need to apply equally to subsurface water withdrawals. In some of the written objections voiced about the draft, it was stated that these regulations can only apply to the streams themselves and not to wells. Conceptually I could only accept this if there were no connections between streams and the surrounding groundwater. That would be a hard sell to any rational person. A simple addition to the draft stating that the stream flow regulations apply to any activity that impacts stream flows would solve this. Also, the application of these regulations to previously exempted or grand-fathered groundwater withdrawals must be re-examined under the lens of the new regulations, to prompt the evaluation of improved technologies and potential trade-offs today that did not exist in the past. I have concerns that the agriculture community feels it should be perpetually exempted from regulation, based on the statement that it always was. This reflects Luddite-type thinking and does not add to our ability to create a collaborative solution for everyone.

The second concern I have with this initial draft is that it appears to target maintaining the status quo across all the state's watersheds. I would like to see an explicit statement in the goals of these regulations incorporating the principle that the quality and adequacy of our stream flows should always getting better. The complementary statement to consider is that no stakeholder action will be allowed to maintain a degraded status quo or permitting further degradation. This reflects an underlying philosophy of 'improvement'. I feel this is important because of statements such as 'there's plenty of water in this state' We need to acknowledge Connecticut's rivers are indeed compromised, threatened, and therefore need to be improved. I specifically have concerns that the Class 4 definition reflects just such a waste bin. Our urban rivers have been despoiled from centuries of industrial activity, but we have learned much since Colonial times. Even rivers such as Cleveland's Cuyahoga, which actually caught fire in 1969, can come back. Today, after efforts to eliminate the sources of the oily pollution, that river is home to more than 60 species of fish. Beavers, blue herons and bald eagles nest along the river's banks. Long sections of the Cuyahoga are clean enough that they no longer require aggressive monitoring. So, for the regulations for this Class, there needs to be language that requires actions that can potentially move such rivers at least up to Class 3. Currently, a designation of Class 4 would be a dead end, a death sentence. You can change that.

Alignment of DEP and TU Goals Enable Us To Work Together

TU's underlying cold water conservation mission is embodied in the four words, i.e., protect, reconnect, restore, and sustain, that describe our members' actions around this country's water environment.

Digging a little deeper into the meaning:

- We PROTECT pristine headwaters and prime class A waters through advocacy for better laws and regulations,
- Our Chapters' projects RECONNECT these areas to adjoining habitats and watersheds
- Members RESTORE the riverine habitats themselves, and...
- We SUSTAIN these successes for the future, for example, by engaging a new generation of conservation-minded anglers.

DEP's stream flow regulations can clearly reinforce TU's ability to achieve these four elements:

- Thoughtful, science- and empirical-data-based river classifications that also are part of a process that will move rivers and streams from Class 4 to Class 3, from Class 3 to Class 2, and Class 2 to Class 1.
- Requiring adequate flows to ensure that streams will rarely if ever dry up and interrupt spawning routes
- Incentives to stakeholders that support meaningful stream restoration, which again has the potential to elevate their class designation
- A holistic set of regulations that encourage continued ecological improvements and cooperative dialogue among all stakeholders. This is not just about constraints on water suppliers and major users, but also the needs of the general public who also want adequate supplies for recreation and home use.

As the elected spokesman for TU and its members here in Connecticut, I strongly support implementing these regulations, with the few recommended improvements I stated above.

In closing, I urge the DEP and its Regulatory Review Committee to maintain its focus on what is best for the long-term benefit for our state's water and its people. You have spent time trying to understand all that impacts the stream flows in our state, and this effort is reflected in your draft. In the months ahead, I will support your efforts to deal constructively with any requisite trade-offs that might have to be made. The rest of the country will be looking to what Connecticut achieves.

Sincerely,



James P. Glowienka  
Chairman, Connecticut Council  
Trout Unlimited